

United States Patent and Trademark Office



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. CONFIRMATION NO.	
10/771,745	02/04/2004	Vivek Kadambi	KADA-1 3646	
David A. Lund	7590 03/21/2007	EXAMINER		
KRIEG DEVA	ULT LUNDY LLP	HARRINGTON, ALICIA M		
825 Anthony W 203 E. Berry St		ART UNIT	PAPER NUMBER	
Fort Wayne, IN		2873		
SHORTENED STATUTOR	Y PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
3 MONTHS		03/21/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application	n No.	Applicant(s)				
Office Action Summary		10/771,74	5	KADAMBI, VIVEK				
		Examiner		Art Unit				
		Alicia M. H	arrington	2873				
	The MAILING DATE of this communication			orrespondence address				
Period for Reply								
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).								
Status								
1)⊠	☑ Responsive to communication(s) filed on <u>04 February 2004</u> .							
2a) <u></u> ☐	This action is FINAL . 2b)⊠ This action is non-final.							
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.								
Disposition of Claims								
4)⊠	4)⊠ Claim(s) <u>1-50</u> is/are pending in the application.							
	4a) Of the above claim(s) is/are withdrawn from consideration.							
5)⊠	5)⊠ Claim(s) <u>1-8.15-18,24-50</u> is/are allowed.							
· · · · · · · · · · · · · · · · · · ·	6)⊠ Claim(s) <u>9-14 and 19-23</u> is/are rejected.							
·	Claim(s) is/are objected to.	-1/1						
8)[_	Claim(s) are subject to restriction an	id/or election re	equirement.					
Applicati	on Papers							
9)	The specification is objected to by the Exam	niner.						
10)⊠	The drawing(s) filed on <u>04 February 2004</u> is	s/are: a)⊠ acc	epted or b) objecte	d to by the Examiner.				
	Applicant may not request that any objection to							
44)	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
Priority under 35 U.S.C. § 119								
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).								
a) ☐ All b) ☐ Some * c) ☐ None of:								
	1. Certified copies of the priority documents have been received.							
	2. Certified copies of the priority documents have been received in Application No							
	3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.								
See the attached detailed Office action for a list of the certified copies not received.								
Attachmen								
	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948))	4) Interview Summary Paper No(s)/Mail Da					
3) 🔲 Infon	mation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	•	5) Notice of Informal P 6) Other:					

Application/Control Number: 10/771,745 Page 2

Art Unit: 2873

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 9-14 and 19-23 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well-established utility.

The claims are directed to neither a process nor a machine. They represent a mixture of an apparatus and method.

- 3. Claims 9-14,19-23 also rejected under 35 U.S.C. 112, first paragraph.

 Specifically, since the claimed invention is not supported by either a specific and substantial well asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.
- 4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 5. Claims 9-14,19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Application/Control Number: 10/771,745 Page 3

Art Unit: 2873

Claims 9-14 and 19-23 are directed to neither a process nor a machine. They represent a mixture of an apparatus and method. Thus, the claims are improper and indefinite.

Allowable Subject Matter

- 6. Claims 1-8,15-18,24-50 are allowed.
- 7. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 1, prior art fails to teach a method for evaluating accommodation amplitude in an eye of a person comprising the steps of subjecting said person to a near vision acuity test, said test comprising optotypes, determining a nearest point at which a person experience blurring, introducing a positive or minus lens and calculating the accommodation amplitude as claimed; Regarding claim 33, prior art fails to teach a method for evaluating accommodation amplitude in an eye of a person comprising the steps of subjecting said person to a near vision acuity test, said test comprising optotypes, fixing said target, introducing lenses, noting the dioptric power, and calculating said accommodation amplitude as claimed.

Regarding claim 24, prior art fails to teach an apparatus for evaluating accommodation amplitude comprising a holder, a track, a control piece, a lens positioner, where said apparatus being mounted at one end adjacent an eye of a person, said track being aligned with the line of sight for the said eye as claimed.

Conclusion

Application/Control Number: 10/771,745 Page 4

Art Unit: 2873

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

WH Glazer (US 2,523,007) discloses an ocular diagnostic instrument.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Harrington whose telephone number is 571 272 2330. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571 272 2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alicia M Harrington Primary Examiner

Art Unit 2873